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Division of Medical Quality  
State of California

BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE

DIVISION OF MEDICAL QUALITY

STATE OF CALIFORNIA

In the Matter of the Accusation	)	NO. D-1964
	)	
Against	)	ORDER ADOPTING
	)	<u>STIPULATION AND DECISION</u>
ELLIOT RIVER, M.D.	)	
1800 31st Avenue	)	
San Francisco, California	)	
	)	
Certificate No. A-20864,	)	
	)	
Respondent.	)	

The attached Stipulation and Decision is accepted and adopted by the Division of Medical Quality of the Board of Medical Quality Assurance, State of California, and shall constitute the Decision and Order of the Division in the matter.

The Decision and Order of the Division shall become effective on 24th day of MARCH, 1978.

It is so ordered on FEBRUARY 22, 1978.

*Michael J. Farrell*  
DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY  
ASSURANCE, STATE OF CALIFORNIA

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13 ELLIOT RIVER, M.D.	)	
1800 31st Avenue	)	
14 San Francisco, California	)	
	)	
15 Certificate No. A-20864,	)	
	)	
16 Respondent.	)	
	)	

17  
18 IT IS HEREBY STIPULATED by and between Elliot River,  
19 M.D. (hereinafter "Respondent"), with the advice and consent of  
20 his attorney, Steven Englander, and the Division of Medical  
21 Quality of the Board of Medical Quality Assurance, State of  
22 California (hereinafter either the "Division" or "Board"), by and  
23 through its attorney, Evelle J. Younger, Attorney General of the  
24 State of California, by Kenneth L. Freeman, Deputy Attorney  
25 General, as follows:

26 1. That respondent has been served with, and has  
27 read, the Accusation which is presently on file and pending in

1 Case No. D-1964 before the Division.

2           2. That respondent understands that the nature of the  
3 charges alleged in said Accusation constitute the basis for this  
4 disciplinary proceeding against his certificate to practice as a  
5 physician and surgeon in the State of California.

6           3. That Joseph P. Cosentino, M.D., was, at the time  
7 of the signing of said Accusation, the Executive Director of the  
8 Board, and made the charges and allegations set forth in said  
9 Accusation in his official capacity and not otherwise.

10           4. That on or about September 10, 1963, respondent  
11 was issued by the Board physician's and surgeon's certificate  
12 No. A-20864. Such certificate was in full force and effect at all  
13 time material to the charges set forth in said Accusation. No  
14 prior disciplinary action has been taken against said certificate.

15           5. That Seconal is a trade name for the generic  
16 substance secobarbital, which substance is a controlled substance  
17 as defined in the California Health and Safety Code, and a  
18 dangerous drug as defined in the California Business and Professions  
19 Code.

20           6. That Dalmane is a trade name for the generic  
21 substance Flurazepam, which substance is a dangerous drug as  
22 defined in the California Business and Professions Code.

23           7. Respondent admits that on or about the dates listed  
24 below, he did prescribe a controlled substance and/or dangerous  
25 drug as listed below to the individuals listed below, without  
26 first conducting a good faith examination and without medical  
27 indication therefor:

- 1 a. March 25, 1976 B [REDACTED] D [REDACTED] 50 seconal  
(Aka J [REDACTED] S [REDACTED])
- 2 b. April 8, 1976 B [REDACTED] D [REDACTED] 50 seconal  
(Aka J [REDACTED] S [REDACTED])
- 3 c. April 13, 1976 S [REDACTED] D [REDACTED] 50 seconal
- 4 d. April 13, 1976 E [REDACTED] C [REDACTED] 50 seconal
- 5 e. May 11, 1976 S [REDACTED] D [REDACTED] 30 seconal
- 6 f. May 26, 1976 B [REDACTED] D [REDACTED] 100 dalmane  
(Aka J [REDACTED] S [REDACTED])
- 7 g. December 7, 1976 G [REDACTED] M [REDACTED] 30 secobarbital

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9

10 8. Respondent admits that said conduct as set forth

11 above in paragraph 7 is unprofessional conduct on his part in

12 violation of sections 2399.5 of the California Business and

13 Professions Code; and that said conduct constitutes grounds for

14 disciplinary action against his physician's and surgeon's

15 certificate pursuant to sections 2360 and 2361 of the California

16 Business and Professions Code.

17 9. That based upon the foregoing recitals and

18 stipulations, IT IS HEREBY HEREBY FURTHER STIPULATED AND AGREED

19 that the Division may issue a Decision and impose a disciplinary

20 order against respondent's certificate No. A-20864 as follows:

21 A. Respondent's certificate No. A-20864 is hereby

22 suspended for a period of six (6) months; provided, however, that

23 said order of suspension is stayed for a period of five (5) years

24 from the effective date of the Division's Decision and Order, at

25 which time said stay shall become permanent; provided further,

26 however, that respondent complies with the following terms and

27 conditions of probation for said five (5) year period:

1           (1) Respondent shall comply with all laws of the  
2 United States, State of California, and its political  
3 subdivisions, which relate to the practice of medicine;  
4 and with all rules and regulations of the Board;

5           (2) Within ninety (90) days from the effective  
6 date of the Division's Decision and Order, a medical  
7 consultant for the Division will send respondent  
8 written notice of the time, date and place for an  
9 initial interview to discuss the terms and conditions  
10 of probation. Respondent shall report in person to  
11 the medical consultant as requested, and, during  
12 probation, shall appear in person for subsequent  
13 interviews held at least once per calendar year, as  
14 directed by the medical consultant or by the Division;

15           (3) Respondent shall submit to the Division  
16 quarterly written reports on forms provided by the  
17 Division and on dates indicated by the Division;

18           (4) During each year of this probation,  
19 respondent shall complete a continuing education  
20 course in a family practice and pharmacology related  
21 subject, which courses shall be approved by the  
22 Division. Evidence of the completion of said  
23 courses shall be submitted to the Division in writing;

24           (5) During the period of said probation,  
25 respondent shall relinquish all privileges related to  
26 Schedule II controlled substances, except for the  
27 substances known as Eskatrol and Dexedrine. Except

1       for said Eskatrol and Dexedrine, respondent shall  
2       not possess, dispense, prescribe, or otherwise  
3       distribute any other Schedule II controlled  
4       substances, except as prescribed for his personal  
5       use by a licensed physician and surgeon.

6               B.    In the event that respondent fails to comply with  
7   any terms of this probation, the Division, after notice to  
8   respondent and an opportunity to be heard, may dissolve said stay  
9   effective immediately and institute said order of suspension, or  
10   make such other order as it deems appropriate and reasonable in  
11   its discretion.

12               C.   Upon the expiration of said five (5) year period,  
13   as provided herein, respondent's certificate No. A-20864 shall  
14   be fully restored.

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10. RESPONDENT ACKNOWLEDGES that he is fully aware of his right to a hearing on the charges and allegations set forth in said Accusation; his right to cross-examine witnesses; his right to present evidence in his own behalf, both in defense and in mitigation of said charges and allegations; and his right to reconsideration, appeal, and any and all other rights which may be accorded him pursuant to the California Administrative Procedure Act. Respondent hereby fully and voluntarily waive said rights (except those rights accorded him pursuant to Government Code section 11522 and Business and Professions Code section 2376.5) with regard to the Accusation on file in this proceeding No. D-1964.

DATED: December 30, 1977

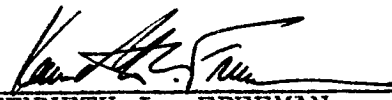
  
ELLIOT RIVER, M.D.  
Respondent

DATED: December 30, 1977

  
STEVEN ENGLANDER  
Attorney for Respondent

EVELLE J. YOUNGER  
Attorney General of the  
State of California

DATED: January 3, 1978 By:

  
KENNETH L. FREEMAN  
Deputy Attorney General

Attorneys for the Board of  
Quality Assurance  
Division of Medical Quality  
State of California

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10 In the Matter of the Accusation }  
 11 against }  
 12 ELLIOT RIVER, M.D. }  
 1800 - 31st Avenue }  
 13 San Francisco, California }  
 Certificate No. A-20864 }  
 14 Respondent. }

NO. D-1964

ACCUSATION

15  
 16 Joseph P. Cosentino, M.D., complainant herein, charges  
 17 and alleges as follows:

18 1. He is the Acting Executive Director of the Board of  
 19 Medical Quality Assurance, State of California (hereinafter  
 20 referred to as the "Board"), and makes these charges and allega-  
 21 tions in his official capacity and not otherwise.

22 2. At all times material herein, respondent Elliot  
 23 River, M.D., has held a certificate as a physician and surgeon  
 24 issued by the Board, more particularly identified as Certificate  
 25 Number A-20864. Said certificate was issued on or about  
 26 September 10, 1963, and is, and has been, in good standing and  
 27 full force and effect.

28 3. Seconal is a trade name for the generic substance  
 29 secobarbital, which substance is a controlled substance as defined  
 30 in Schedule III, section 11056(b)(1) of the California Health and  
 31 Safety Code, and a dangerous drug as defined in sections 4211(a)  
 32 and 4211(k) of the California Business and Professions Code.



1 4. Dalmane is a trade name for the generic substance  
2 flurazepam, which substance is a dangerous drug as defined in  
3 section 4211(k) of the California Business and Professions Code.

4 5. On or about the dates listed below, respondent did  
5 prescribe a controlled substance and/or dangerous drug as listed  
6 below to the individuals listed below, without first conducting a  
7 good faith examination and without medical indication therefor:

8 a. March 25, 1976	B [REDACTED] D [REDACTED] (aka J [REDACTED] S [REDACTED])	50 Seconal
9 b. April 8, 1976	B [REDACTED] D [REDACTED] (aka J [REDACTED] S [REDACTED])	50 Seconal
10 c. April 13, 1976	S [REDACTED] D [REDACTED]	50 Seconal
11 d. April 13, 1976	E [REDACTED] C [REDACTED]	50 Seconal
12 e. May 11, 1976	S [REDACTED] D [REDACTED]	30 Seconal
13 f. May 26, 1976	B [REDACTED] D [REDACTED] (aka J [REDACTED] S [REDACTED])	100 Dalmane
14 g. December 7, 1976	G [REDACTED] M [REDACTED]	30 Secobarbital

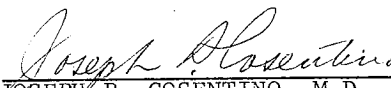
15  
16  
17 6. The conduct of respondent as alleged above in  
18 paragraphs 5 and 5(a) through 5(g), inclusive, is unprofessional  
19 conduct on his part and violations by him of section 2399.5 of  
20 the California Business and Professions Code, and thereby consti-  
21 tutes grounds for disciplinary action against respondent pursuant  
22 to section 2360 of the California Business and Professions Code.

23 7. The dates, individuals, and controlled substances  
24 and/or dangerous drugs set forth above in paragraph 5(a) through  
25 5(g), inclusive, are incorporated herein by reference as though  
26 set forth at length. On or about said dates, and each of them,  
27 respondent did violate a state statute regulating dangerous drugs  
28 or controlled substances, in that he did provide the enumerated  
29 substances to the designated individuals on the dates specified,  
30 when said individuals were not under his treatment for a pathology  
31 or condition.

1 8. The conduct of respondent as alleged above in para-  
2 graph 7 is unprofessional conduct on his part and violations by  
3 him of section 2391.5 of the California Business and Professions  
4 Code, in that said conduct violates section 11154 of the  
5 California Health and Safety Code, a state statute regulating  
6 dangerous drugs or controlled substances; and thereby constitutes  
7 grounds for disciplinary action against respondent pursuant to  
8 section 2360 of the California Business and Professions Code.

9 WHEREFORE, complainant prays that a hearing be held and  
10 that, thereafter, the Board suspend or revoke respondent's license  
11 as to each and every separate and distinct violation alleged  
12 herein, or take such other and further action as is deemed neces-  
13 sary and proper.

14 DATED: 3-3-77

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17 JOSEPH P. COSENTINO, M.D.  
18 Acting Executive Director  
19 Board of Medical Quality Assurance  
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